

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

DESTINY WASHINGTON, DEVIN)	
HAZEL, and DORIS ALEXANDER,)	
individually and on behalf of all others)	
similarly situated,)	Case No. 1:20-cv-00246-JJM-LDA
)	
Plaintiffs,)	
)	
v.)	
)	
JOHNSON & WALES UNIVERSITY,)	
)	
Defendant.)	

**DEFENDANT JOHNSON & WALES UNIVERSITY’S
NOTICE OF SUPPLEMENTAL AUTHORITY IN RESPONSE TO COURT QUESTION**

Defendant Johnson & Wales University (“JWU”) respectfully submits this notice of supplemental authority to address a question that the Court raised during the hearing on the motion to dismiss in this case, held on January 25, 2021. The Court posed the hypothetical question whether, if statements on a website cannot form a contract with university students, the absence of a contract remedy would mean that “colleges can say anything they want on their website and they have no responsibility for anything they say or any representations they make?” Tr. 62:5-8. Counsel for JWU answered that they could not, noting the existence of “false advertising” claims (which plaintiffs do not, and could not, allege). *Id.* at 63:15-21. In addition to such available remedies, JWU respectfully invites the Court’s attention to the federal law and regulations by which Congress and the Department of Education expressly prohibit institutions of higher education from making material misrepresentations, on risk of substantial monetary fines and/or loss of federal funding that is vital for most colleges and universities to function. *See, e.g.*, 20 U.S.C. 1094(c)(3)(A), (B); 34 C.F.R. § 668.71 *et seq.*; 668.84; 685.206(e)(2), (e)(3), (e)(16);

685.222(d), (e)(7), (h)(5) (attached as Exhibits 1-5). These and a panoply of other legal provisions make educational institutions among the most regulated in the country and confirm that the answer to the Court's hypothetical question is a resounding "No."

DATED: February 3, 2021

Respectfully submitted,

By /s/ Robert Clark Corrente

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Notice of Supplemental Authority in Response to Court Question was served on all counsel of record on February 3, 2021, using the Court's CM/ECF system, which will send a notification of such filing.

/s/ Crystal Nix-Hines
Crystal Nix-Hines